

**House File 2421 - Introduced**

HOUSE FILE 2421  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO HSB 623)

**A BILL FOR**

1 An Act relating to persons with mental health illnesses and  
2 substance-related disorders.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 80B.11, subsection 1, paragraph c, Code  
2 2011, is amended by adding the following new subparagraph:

3 NEW SUBPARAGRAPH. (3) In-service training under this  
4 paragraph "c" shall include the requirement that all law  
5 enforcement officers complete a course on mental health at  
6 least once every four years. In developing the requirements  
7 for this training, the director shall seek input from mental  
8 health care providers and mental health care consumers.

9 Sec. 2. Section 125.91, subsection 1, Code Supplement 2011,  
10 is amended to read as follows:

11 1. The procedure prescribed by this section shall only be  
12 used for an intoxicated person who has threatened, attempted,  
13 or inflicted physical self-harm or harm on another, and is  
14 likely to inflict physical self-harm or harm on another unless  
15 immediately detained, or who is incapacitated by a chemical  
16 substance, ~~if that person cannot be taken into immediate~~  
17 ~~custody under sections 125.75 and 125.81 because immediate~~  
18 ~~access to the court is not possible~~ an application has not been  
19 filed naming the person as the respondent pursuant to section  
20 125.75 and the person cannot be ordered into immediate custody  
21 and detained pursuant to section 125.81.

22 Sec. 3. Section 135C.4, Code 2011, is amended to read as  
23 follows:

24 **135C.4 Residential care facilities.**

25 1. Each facility licensed as a residential care facility  
26 shall provide an organized continuous twenty-four-hour program  
27 of care commensurate with the needs of the residents of the  
28 home and under the immediate direction of a person approved  
29 and certified by the department whose combined training  
30 and supervised experience is such as to ensure adequate and  
31 competent care.

32 2. All admissions to residential care facilities shall be  
33 based on an order written by a physician certifying that the  
34 individual being admitted does not require nursing services or  
35 that the individual's need for nursing services can be avoided

1 if home and community-based services, other than nursing care,  
2 as defined by this chapter and departmental rule, are provided.

3 3. For the purposes of this section, the home and  
4 community-based services to be provided shall be limited to the  
5 type included under the medical assistance program provided  
6 pursuant to chapter 249A, shall be subject to cost limitations  
7 established by the department of human services under the  
8 medical assistance program, and except as otherwise provided by  
9 the department of inspections and appeals with the concurrence  
10 of the department of human services, shall be limited in  
11 capacity to the number of licensed residential care facilities  
12 and the number of licensed residential care facility beds in  
13 the state as of December 1, 2003.

14 4. A residential care facility is not required to admit  
15 an individual through court order, referral, or other means  
16 without the express prior approval of the administrator of the  
17 residential care facility.

18 Sec. 4. Section 228.1, subsection 6, Code 2011, is amended  
19 by striking the subsection and inserting in lieu thereof the  
20 following:

21 6. "*Mental health professional*" means an individual who has  
22 either of the following qualifications:

23 a. The individual meets all of the following requirements:

24 (1) The individual holds at least a master's degree in a  
25 mental health field, including but not limited to psychology,  
26 counseling and guidance, nursing, and social work, or is an  
27 advanced registered nurse practitioner, a physician assistant,  
28 or a physician and surgeon or an osteopathic physician and  
29 surgeon.

30 (2) The individual holds a current Iowa license if  
31 practicing in a field covered by an Iowa licensure law.

32 (3) The individual has at least two years of post-degree  
33 clinical experience, supervised by another mental health  
34 professional, in assessing mental health needs and problems and  
35 in providing appropriate mental health services.

1     *b.* The individual holds a current Iowa license if  
2 practicing in a field covered by an Iowa licensure law and is  
3 a psychiatrist, an advanced registered nurse practitioner who  
4 holds a national certification in psychiatric mental health  
5 care registered by the board of nursing, a physician assistant  
6 practicing under the supervision of a psychiatrist, or an  
7 individual who holds a doctorate degree in psychology and is  
8 licensed by the board of psychology.

9     Sec. 5. Section 229.1, Code Supplement 2011, is amended by  
10 adding the following new subsection:

11     NEW SUBSECTION. 8A. "*Mental health professional*" means the  
12 same as defined in section 228.1.

13     Sec. 6. Section 229.1, subsection 14, Code Supplement 2011,  
14 is amended by striking the subsection.

15     Sec. 7. Section 229.1, subsection 16, Code Supplement 2011,  
16 is amended to read as follows:

17     16. "*Serious emotional injury*" is an injury which does not  
18 necessarily exhibit any physical characteristics, but which can  
19 be recognized and diagnosed by a licensed physician or other  
20 ~~qualified~~ mental health professional and which can be causally  
21 connected with the act or omission of a person who is, or is  
22 alleged to be, mentally ill.

23     Sec. 8. NEW SECTION. **229.5A Preapplication screening**  
24 **assessment — program.**

25     Prior to filing an application for involuntary  
26 hospitalization pursuant to section 229.6, the clerk of  
27 the district court or the clerk's designee shall inform  
28 the interested person referred to in section 229.6,  
29 subsection 1, about the option of requesting a preapplication  
30 screening assessment through a preapplication screening  
31 assessment program. The state court administrator shall  
32 prescribe practices and procedures for implementation of the  
33 preapplication screening assessment program.

34     Sec. 9. Section 229.6, Code 2011, is amended to read as  
35 follows:

1     **229.6 Application for order of involuntary hospitalization.**

2     1. Proceedings for the involuntary hospitalization of an  
3 individual may be commenced by any interested person by filing  
4 a verified application with the clerk of the district court of  
5 the county where the respondent is presently located, or which  
6 is the respondent's place of residence. The clerk, or the  
7 clerk's designee, shall assist the applicant in completing the  
8 application. The application shall:

9     ~~1.~~ a. State the applicant's belief that the respondent is  
10 seriously mentally impaired.

11     ~~2.~~ b. State any other pertinent facts.

12     ~~3.~~ c. Be accompanied by any of the following:

13     ~~a.~~ (1) A written statement of a licensed physician in  
14 support of the application~~;~~ ~~or.~~

15     ~~b.~~ (2) One or more supporting affidavits otherwise  
16 corroborating the application~~;~~ ~~or.~~

17     ~~c.~~ (3) Corroborative information obtained and reduced to  
18 writing by the clerk or the clerk's designee, but only when  
19 circumstances make it infeasible to comply with, or when the  
20 clerk considers it appropriate to supplement the information  
21 supplied pursuant to, either ~~paragraph "a" or paragraph "b" of~~  
22 ~~this subsection~~ subparagraph (1) or (2).

23     2. Prior to the filing of an application pursuant to this  
24 section, the clerk or the clerk's designee shall inform the  
25 interested person referred to in subsection 1 about the option  
26 of requesting a preapplication screening assessment pursuant  
27 to section 229.5A.

28     Sec. 10. Section 229.10, subsection 1, paragraph b, Code  
29 2011, is amended to read as follows:

30     **b.** Any licensed physician conducting an examination pursuant  
31 to this section may consult with or request the participation  
32 in the examination of any ~~qualified~~ mental health professional,  
33 and may include with or attach to the written report of the  
34 examination any findings or observations by any ~~qualified~~  
35 mental health professional who has been so consulted or has so

1 participated in the examination.

2 Sec. 11. Section 229.12, subsection 3, paragraph b, Code  
3 2011, is amended to read as follows:

4 b. The licensed physician or ~~qualified~~ mental health  
5 professional who examined the respondent shall be present at  
6 the hearing unless the court for good cause finds that the  
7 licensed physician's or ~~qualified~~ mental health professional's  
8 presence or testimony is not necessary. The applicant,  
9 respondent, and the respondent's attorney may waive the  
10 presence or the telephonic appearance of the licensed physician  
11 or ~~qualified~~ mental health professional who examined the  
12 respondent and agree to submit as evidence the written  
13 report of the licensed physician or ~~qualified~~ mental health  
14 professional. The respondent's attorney shall inform the  
15 court if the respondent's attorney reasonably believes that  
16 the respondent, due to diminished capacity, cannot make an  
17 adequately considered waiver decision. "Good cause" for finding  
18 that the testimony of the licensed physician or ~~qualified~~  
19 mental health professional who examined the respondent is not  
20 necessary may include but is not limited to such a waiver.  
21 If the court determines that the testimony of the licensed  
22 physician or ~~qualified~~ mental health professional is necessary,  
23 the court may allow the licensed physician or the ~~qualified~~  
24 mental health professional to testify by telephone.

25 Sec. 12. Section 229.19, subsection 1, paragraph d, Code  
26 2011, is amended by adding the following new subparagraph:

27 NEW SUBPARAGRAPH. (7) To utilize the related best practices  
28 for the duties identified in this paragraph "d" developed and  
29 promulgated by the judicial council.

30 Sec. 13. Section 229.19, subsection 1, Code 2011, is amended  
31 by adding the following new paragraph:

32 NEW PARAGRAPH. e. An advocate may also be appointed  
33 pursuant to this section for an individual who has  
34 been diagnosed with a co-occurring mental illness and  
35 substance-related disorder.

1     Sec. 14. Section 229.22, subsection 1, Code Supplement  
2 2011, is amended to read as follows:

3     1. The procedure prescribed by this section shall ~~not~~ be  
4 used ~~unless~~ when it appears that a person should be immediately  
5 detained due to serious mental impairment, but ~~that person~~  
6 ~~cannot be immediately detained by the procedure prescribed~~  
7 ~~in sections 229.6 and 229.11 because there is no means of~~  
8 ~~immediate access to the district court~~ an application has not  
9 been filed naming the person as the respondent pursuant to  
10 section 229.6, and the person cannot be ordered into immediate  
11 custody and detained pursuant to section 229.11.

12     Sec. 15. Section 602.1209, Code 2011, is amended by adding  
13 the following new subsection:

14     NEW SUBSECTION. 15A. Prescribe practices and procedures  
15 for the implementation of the preapplication screening  
16 assessment program referred to in section 229.5A.

17     Sec. 16. CONTINUATION OF WORKGROUP BY JUDICIAL BRANCH AND  
18 DEPARTMENT OF HUMAN SERVICES — CONSOLIDATION OF SERVICES —  
19 PATIENT ADVOCATE. The judicial branch and department of human  
20 services shall continue the workgroup implemented pursuant to  
21 2010 Iowa Acts, chapter 1192, section 24, subsection 2, and  
22 extended pursuant to 2011 Iowa Acts, chapter 121, section 2, to  
23 study and make recommendations relating to the consolidation  
24 of the processes for involuntary commitment for persons with  
25 substance-related disorders under chapter 125, for intellectual  
26 disability under chapter 222, and for serious mental  
27 illness under chapter 229. The workgroup shall also include  
28 representatives from the department of public health. The  
29 workgroup shall also study and make recommendations concerning  
30 the feasibility of establishing an independent statewide  
31 patient advocate program for qualified persons representing  
32 the interests of patients suffering from mental illness,  
33 intellectual disability, or a substance-related disorder and  
34 involuntarily committed by the court, in any matter relating  
35 to the patients' hospitalization or treatment under chapters

1 125, 222, and 229. The workgroup shall also consider the  
2 implementation of consistent reimbursement standards for  
3 patient advocates supported by a state-funded system and  
4 shall also consider the role of the advocate for a person  
5 who has been diagnosed with a co-occurring mental illness  
6 and substance-related disorder. The workgroup shall solicit  
7 input from current mental health advocates and mental health  
8 and substance-related disorder care providers and individuals  
9 receiving services whose interests would be represented by  
10 an independent statewide advocate program and shall submit a  
11 report on the study and make recommendations to the governor  
12 and the general assembly by December 1, 2012.

13 Sec. 17. COMPREHENSIVE JAIL DIVERSION PROGRAM — MENTAL  
14 HEALTH COURTS — STUDY. The division of criminal and juvenile  
15 justice planning of the department of human rights shall  
16 conduct a study regarding the possible establishment of a  
17 comprehensive statewide jail diversion program, including the  
18 establishment of mental health courts, for nonviolent criminal  
19 offenders who suffer from mental illness. The division  
20 shall solicit input from the department of human services,  
21 the department of corrections, and other members of the  
22 criminal justice system including but not limited to judges,  
23 prosecutors, and defense counsel, and mental health treatment  
24 providers and consumers. The division shall establish the  
25 duties, scope, and membership of the study commission and shall  
26 also consider the feasibility of establishing a demonstration  
27 mental health court. The division shall submit a report on the  
28 study and make recommendations to the governor and the general  
29 assembly by December 1, 2012.

30 Sec. 18. PRIOR LAW ENFORCEMENT MENTAL HEALTH TRAINING. A  
31 law enforcement officer who has completed academy-approved  
32 mental health training within the twelve-month period prior to  
33 the effective date of this Act, either through in-service or  
34 academy-approved basic training, shall be considered to have  
35 met the first four-year mental health training requirement of

1 section 80B.11, subsection 1, paragraph "c", subparagraph (3),  
2 as enacted in this Act.

3

EXPLANATION

4 This bill relates to persons with mental health illnesses  
5 and substance-related disorders.

6 MENTAL HEALTH TRAINING — LAW ENFORCEMENT. The bill  
7 requires all law enforcement officers to complete a course  
8 on mental health at least once every four years and requires  
9 the director of the law enforcement academy, subject to  
10 the approval of the Iowa law enforcement council, to adopt  
11 rules relating to mental health training for law enforcement  
12 officers, with input from mental health care providers and  
13 mental health care consumers. A law enforcement officer who  
14 has completed academy-approved mental health training within  
15 the 12-month period prior to the effective date of the bill  
16 will be considered to have met the first four-year mental  
17 health training requirement prescribed in the bill.

18 RESIDENTIAL CARE FACILITIES — ADMITTANCE. The bill  
19 provides that a residential care facility is not required to  
20 admit an individual through court order, referral, or other  
21 means without the express prior approval of the administrator  
22 director of the residential care facility.

23 EMERGENCY DETENTION AND HOSPITALIZATION — PERSONS WITH  
24 SUBSTANCE-RELATED DISORDERS AND MENTAL HEALTH ILLNESSES.  
25 The bill amends Code sections 125.91 and 229.22 relating to  
26 after-hours access to emergency detention and hospitalization  
27 procedures for an intoxicated person who has threatened,  
28 attempted, or inflicted physical self-harm or harm on another,  
29 and is likely to inflict physical self-harm or harm on another  
30 unless immediately detained, or who is incapacitated by a  
31 chemical substance, or for a seriously mentally impaired  
32 person. Current law provides for the immediate custody of such  
33 persons in an emergency situation only after an application  
34 for involuntary commitment or hospitalization has been filed,  
35 which is an option only during regular court hours. The bill

1 amends the current emergency detention and hospitalization  
2 procedures available for such persons to apply only when there  
3 is no immediate access to the district court to allow access to  
4 emergency detention and treatment services, at all times, even  
5 if an application for involuntary commitment or hospitalization  
6 has not been filed.

7 QUALIFIED MENTAL HEALTH PROFESSIONAL. The bill amends  
8 the definition of "mental health professional" in Code  
9 chapter 228 (relating to the disclosure of mental health and  
10 psychological information). The bill eliminates the definition  
11 of "qualified mental health professional" in Code chapter 229  
12 (hospitalization of persons with mental illness) and adopts the  
13 new definition of "mental health professional" in the bill for  
14 purposes of Code chapter 229.

15 PREAPPLICATION SCREENING ASSESSMENT. The bill provides that  
16 prior to filing an application for involuntary hospitalization  
17 pursuant to Code section 229.6, the clerk of the district court  
18 or the clerk's designee is required to inform the interested  
19 person referred to in Code section 229.6, subsection 1,  
20 about the option of requesting a preapplication screening  
21 assessment through a preapplication screening assessment  
22 program. The bill requires the state court administrator to  
23 prescribe practices and procedures for implementation of the  
24 preapplication screening assessment program.

25 A conforming change is made to Code section 229.6 requiring  
26 the district court clerk or the clerk's designee to inform  
27 the interested person about the option of requesting a  
28 preapplication screening assessment of the proposed respondent  
29 prior to the filing of an application for involuntary  
30 commitment. A conforming change is also made to Code  
31 section 602.1209 relating to the duties of the state court  
32 administrator.

33 MENTAL HEALTH ADVOCATE. The bill provides that a mental  
34 health advocate shall utilize the related best practices for  
35 the mental health advocate's duties identified in Code section

1 229.19 developed and promulgated by the judicial council.  
2 The bill allows a mental health advocate to be appointed by  
3 the appropriate appointing authority for an individual who  
4 has been diagnosed with a co-occurring mental illness and  
5 substance-related disorder.

6 CONTINUATION OF WORKGROUP BY JUDICIAL BRANCH AND  
7 DEPARTMENT OF HUMAN SERVICES — CONSOLIDATION OF SERVICES  
8 — PATIENT ADVOCATE. The bill requires the judicial branch  
9 and department of human services to continue the workgroup  
10 implemented pursuant to 2010 Iowa Acts, chapter 1192, section  
11 24, subsection 2, and extended pursuant to 2011 Iowa Acts,  
12 chapter 121, section 2, to study and make recommendations  
13 relating to the consolidation of the processes for involuntary  
14 commitment for persons with substance-related disorders under  
15 Code chapter 125, for intellectual disability under Code  
16 chapter 222, and for serious mental illness under Code chapter  
17 229. The workgroup shall also include representatives from  
18 the department of public health. The workgroup shall also  
19 study and make recommendations concerning the feasibility of  
20 establishing an independent statewide patient advocate program  
21 for qualified persons representing the interests of patients  
22 suffering from mental illness, intellectual disability, or a  
23 substance-related disorder and involuntarily committed by the  
24 court. The workgroup shall also consider the implementation of  
25 consistent reimbursement standards for patient advocates and  
26 the role of the advocate for a person who has been diagnosed  
27 with a co-occurring mental illness and substance-related  
28 disorder. The workgroup shall submit a report on the study and  
29 make recommendations to the governor and the general assembly  
30 by December 1, 2012.

31 COMPREHENSIVE JAIL DIVERSION PROGRAM — MENTAL HEALTH  
32 COURTS — STUDY. The bill directs the division of criminal and  
33 juvenile justice planning of the department of human rights  
34 to conduct a study regarding the possible establishment of a  
35 comprehensive statewide jail diversion program, including the

1 establishment of mental health courts, for nonviolent criminal  
2 offenders who suffer from mental illness. The division  
3 shall solicit input from the department of human services,  
4 the department of corrections, and other members of the  
5 criminal justice system including but not limited to judges,  
6 prosecutors, and defense counsel, and mental health treatment  
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